

In re) Fair Hearing No. 21,209
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Appeal of)

The petitioner appeals a decision by the Department for Children and Families, Economic Services Division reducing her Food Stamp benefits to \$10 a month. The issue is whether the petitioner has received all of the deductions from income to which she is entitled.¹

1. The petitioner lives in a rent-subsidized apartment that includes all utilities. Her income for Food Stamp purposes is \$694.04 per month in Social Security benefits. The petitioner lives with another adult who has unearned income of \$1,364 a month.

¹ Most of the proposed findings of fact in this matter are based on a written submission provided by the Department following the hearing in this matter held on December 12, 2007.

based on the fact that last year the petitioner qualified for a minimum \$5 payment of seasonal fuel assistance.

3. On October 18, 2007 the Department notified the petitioner that she was not eligible to receive any seasonal fuel assistance this year. Unlike Food Stamps, the fuel assistance regulations require the inclusion of the income of all household members in determining eligibility for that program. In the petitioner's case, the income of the petitioner's housemate appears to have more than doubled since last year. It does not appear to be disputed that this explains why the petitioner was found eligible for fuel assistance last heating season, but not this year.

4. Unfortunately, however, under the Food Stamp regulations (see *infra*) the loss of eligibility for fuel assistance disqualifies the household from receiving the *standard* fuel and utility deduction for Food Stamps. Instead, the petitioner's shelter expenses are now calculated based on her *actual* housing costs. As noted above, the petitioner lives in a rent-subsidized apartment that includes all utilities. Thus, her actual housing costs are significantly lower than the standard fuel and utility allowance granted to households that receive fuel assistance. This loss of the standard utility allowance as a deduction

from her income resulted in a reduction in the petitioner's Food Stamps from \$162 to \$10 a month.²

ORDER

The Department's decision should be affirmed.

REASONS

The Food Stamp regulations require the inclusion of all "unearned income" in determining eligibility, subject only to certain enumerated deductions. F.S.M. 273.9(b)(2)(ii). In most circumstances a "shelter deduction" is computed by determining the amount by which a household's shelter costs exceed fifty percent of the income remaining after the other deductions are taken. F.S.M. 273.9(d)(5)(i).

Usually, shelter expenses are calculated by adding together continuing charges, such as monthly rent or mortgage payments, along with annual real estate tax and insurance amounts modified to reflect monthly averages and the actual cost of utilities. F.S.M. 273.9(d)(5)(i). However, to simplify utility calculations (at least for initiates into

² Although this reduction in Food Stamps appears drastic, it is based in large part on the fact that the income of the petitioner's housemate appears to have increased by over \$900 a month in the past year. Thus, at least theoretically, the petitioner should be able to offset the reduction in her Food Stamps by adjusting the contribution of her housemate to their household expenses.

such matters) DCF has adopted "standard allowances" depending upon the utilities which the applicant must pay. F.S.M. 273.9(d)(6)(ii). Applicants who pay all of their own utilities and households that have been found eligible for seasonal fuel assistance benefits receive a standard allowance of \$572 a month. P-2590 A(5).

As noted above, due to a substantial increase in the income of another (fuel assistance) household member, the petitioner was not found eligible for fuel assistance this year. Thus, under the Food Stamp regulations she no longer qualifies for the standard utility allowance. The only deduction from income this leaves the petitioner eligible for is the \$134 "standard deduction" available to all one-to-three-person Food Stamp households. See P-2590 A(1).

It appears that the Department correctly determined that the petitioner's countable income for Food Stamp eligibility was over \$503.36 per month, which under the regulations is the threshold for a single-person household to receive more than \$10 per month in Food Stamps. P-2590D(7). Thus, the Board must affirm the Department's decision. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

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